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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/684,985	10/14/2003	Bradley G. Culter	100200410-2	4736

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EXAMINER
INGBERG, TODD D

ART UNIT	PAPER NUMBER
2193	

DATE MAILED: 09/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/684,985	Applicant(s) CULTER, BRADLEY G.	
	Examiner Todd Ingberg	Art Unit 2193	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>11/03/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1 – 25 have been examined

Information Disclosure Statement

1. The Information Disclosure Statement file November 3, 2003 has been considered in part. Applicant has requested Examiner considered a document that is not in the Examiner's possession. This document has not been considered.

Drawings

2. The drawings filed have been accepted.

Specification

3. The Title should not have legal words like "method" and "system" present.

Priority

4. Domestic priority to 60/483,670 June 30,2003 has been granted.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 20 – 25 are rejected under 35 U.S.C. 101 because

The current focus of the Patent Office in regard to statutory inventions under 35 U.S.C. § 101 for method claims and claims that recite a judicial exception (software) is that the claimed invention recite a practical application. Practical application can be provided by a physical transformation or a useful, concrete and tangible result. No physical transformation is recited and additionally, the final result of the claim is development of firmware which is not a tangible result because the result is not clearly claimed to be tangibly

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embodied on a computer readable medium. The following link on the World Wide Web is for the United States Patent And Trademark Office (USPTO) policy on 35 U.S.C. §101.

http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/guidelines101_20051026.pdf

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1 – 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN # 6,477,683 B1 **Killian** et al filed February 5, 1999 in view of Microsoft Visual Source Safe version 5.0 (VSS).

Claim 1

Killian teaches a method for developing firmware (Killian, Abstract), the method comprising: defining a framework for firmware to be developed by firmware developers (Lillian, Abstract) at different design centers (VSS, supports remote users (VSS, page 119, Teams) and projects– Part III – page 107);

at least one of said firmware developers developing firmware (Killian, Abstract) as at least one component within said framework (Killian, Abstract, use of HDL); and

depositing said at least one component within a repository that is accessible from all of said design centers (VSS, page 13, Check IN) , wherein said repository includes contextual information about said at least one component deposited therein (VSS, page 47, commenting).

Visual Source Safe is a commercial product that does not limit itself to configuration management of software. The product supports distributed development of multiple projects over a network. Killian teaches the development of firmware. One of ordinary skill in the art at the time of invention would know how to utilize the distributed configuration management support of Visual SourceSafe to develop firmware, because configuration management provides version control.

Claim 2

The method of claim 1 wherein said framework comprises one selected from the group consisting of

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an IA-32 architecture framework, an IA-64 architecture framework, a PA-RISC architecture framework, a MIPS architecture framework, a SPARC architecture framework, a 64 bit AMD OPTERON architecture, and an ALPHA architecture framework. (Killian, col 4, lines 56-60 – RISC).

Claim 3

The method of claim 1 further comprising:

allowing said developers of said different design centers to join as members of a cooperative. As per claim 1 – Projects & Teams and users, page 28 – Add User.

Claim 4

The method of claim 3 wherein said cooperative permits said members to access said at least one component deposited within said repository and use said at least one component for autonomous development of firmware within their respective design center. As per claim 1 and VSS, page , Check OUT – pages 34,53, 120-121, 159.

Claim 5

The method of claim 3 wherein said cooperative permits each of said members access to said repository to retrieve said at least one component from said repository.
Check OUT as per claim 4.

Claim 6

The method of claim 3 wherein said cooperative permits each of said members access to said repository to deposit one or more firmware components that comply with said framework.
Killian, col 7, lines 9 – 21, generation and verification.

Claim 7

The method of claim 1 wherein said different design centers comprise at least one selected from the group consisting of--

high-end server design center, workstation design center, personal computer design center, laptop computer design center, and handheld computer design center. As per claim 1 – Project and Team.

Examiner's Note

Intended use is given no patentable weight.

Claim 8

The method of claim 1 wherein said different design centers comprise design centers for different computer platforms. (Killian, col 5, lines 5 – 65 – teaches generation based on configuration parameters and settings (specifically, col 5line 10). Although, VSS runs on Microsoft Operating Systems, the data stored in the system is in ASCII format and is not limited to any specific architecture. VSS does not limit the design content of the files.

Claim 9

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The method of claim 1 wherein said contextual information about said at least one component comprises: genealogy information for said at least one component. VSS, History, pages 14-16, 86-89, 122-124 and pages 92-96.

Claim 10

The method of claim 9 wherein said contextual information further comprises at least one selected from the group consisting of:

- (a) identification of at least one platform in which said at least one component has been deployed,
- (b) explanation of reasons said at least one component evolved,
- (c) explanation of problems and solutions for evolution of said at least one component,
- (d) references to inventions that said at least one component embodies,
- (e) indication of a health factor of said at least one component,
- (f) process recipes for how to test or validate said at least one component as a unit or within a system (Claim 6 – validation), and
- (g) identification of one or more authors or reusers of said at least one component.

Claim 11

The method of claim 1 wherein if said at least one component was derived from another component in said repository, said contextual information about said at least one component comprises:

information identifying said another component in said repository from which said at least one component was derived. VSS repository of claim 1 and Killian, col 5, lines 34 – 51 – retargeting)

Claim 12

Killian teaches a business method for development of firmware across a plurality of design centers, said business method comprising:

- defining a framework for firmware to be developed at different design centers;
- developing firmware as components within said framework at at least some of the design centers;
- depositing said components within a repository that is accessible by all of said design centers, wherein said repository includes contextual information about said components deposited therein. As per claim 1.

Claim 13

The business method of claim 12 further comprising: allowing firmware developers of said different design centers to join as members of a cooperative (As per claim 3), wherein said cooperative permits said members to access said components deposited within said repository and use said components for autonomous development of firmware within their respective design center(As per claim 4).

Claim 14

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The business method of claim 13 wherein said cooperative permits said members to use said components deposited within said repository for development of different platforms (Killian, col 5, lines 5 – 65 – teaches generation based on configuration parameters and settings (specifically, col 5line 10). Although, VSS runs on Microsoft Operating Systems, the data stored in the system is in ASCII format and is not limited to any specific architecture. VSS does not limit the design content of the files.

Claim 15

The business method of claim 13 wherein said cooperative permits said members to use said components deposited within said repository for development of firmware components that are not required to comply with the defined framework. (VSS, Check IN as per claim 1 – Not limiting the content.

Claim 16

The business method of claim 12 wherein said framework comprises a general purpose processor architectural framework (Killian, col 7, lines 9 – 21 – ISA).

Claim 17

The business method of claim 12 wherein said different design centers comprise at least one selected from the group consisting of:

high-end server design center, workstation design center, personal computer design center, laptop computer design center, and handheld computer design center. As per claim 7.

Claim 18

The business method of claim 12 wherein said different design centers comprise design centers for different computer platforms. As per claim 8.

Claim 19

The business method of claim 12 wherein said contextual information about said components comprises: genealogy information for said components.

As per claim 9.

Claim 20

Killian teaches a system comprising: a plurality of different design centers communicatively coupled by a communication network to a repository, said repository accessible by firmware developers of the design centers; and wherein said repository stores firmware components and contextual information for the firmware components. As per claim 1 – networked.

Claim 21

The system of claim 20 wherein said contextual information for the firmware components comprises: genealogy information for said firmware components. As per claim 9.

Claim 22

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The system of claim 20 further comprising: a defined framework with which said firmware components comply. Killian, generation as per claim 8.

Claim 23

The system of claim 20 wherein said repository permits said firmware developers to access said firmware components deposited therein and use said firmware components for autonomous development of firmware within their respective design center. As per claim 4.

Claim 24

The system of claim 20 wherein said repository permits each of said firmware developers access thereto to deposit one or more firmware components that comply with a defined framework. As per claim 6.

Claim 25

The system of claim 20 wherein said repository is distributed across the plurality of different design centers such that each design center has access to a local image of the firmware components and contextual information stored in the repository. As per claim 1 and local files pages 227-228.

Examiner's Comment

8. Current claim language reads on intended use of distributed configuration management tools.

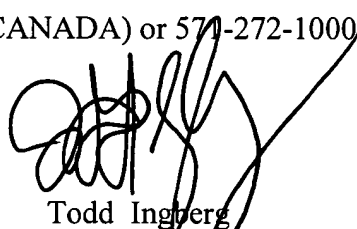
Correspondence Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Todd Ingberg whose telephone number is (571) 272-3723. The examiner can normally be reached on during the work week..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on (571) 272-3719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Todd Ingberg
Primary Examiner
Art Unit 2193

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